

## UTAH

*Specific requirement to report sexual assault? No.*

*Requirement to report non-accidental or intentional injuries? No.*

*Requirement to report injuries caused by criminal conduct? Yes.*

*Additional statutes that may impact competent adult victims of sexual assault? It is mandatory to report injuries caused a knife, gun, pistol, explosive, infernal device, or deadly weapon.*

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### STATUTES ADDRESSING PAYMENT FOR EXAMINATIONS

#### **Utah Code § 63-25a-402. Definitions**

As used in this chapter:

(1) "Accomplice" means a person who has engaged in criminal conduct as defined in Section 76-2-202.

(2) "Board" means the Crime Victims' Reparations Board created under Section 63-25a-404.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Claim" means:

(a) the victim's application or request for a reparations award; and

(b) the formal action taken by a victim to apply for reparations pursuant to Sections 63-25a-401 through 63-25a-428.

(5) "Claimant" means any of the following claiming reparations under this chapter:

(a) a victim;

(b) a dependent of a deceased victim;

(c) a representative other than a collateral source; or

(d) the person or representative who files a claim on behalf of a victim.

(6) "Child" means an unemancipated person who is under 18 years of age.

(7) "Collateral source" means the definition as provided in Section 63-25a-413.

(8) "Contested case" means a case which the claimant contests, claiming the award was either inadequate or denied, or which a county attorney, a district attorney, a law enforcement officer, or other individual related to the criminal investigation proffers reasonable evidence of

the claimant's lack of cooperation in the prosecution of a case after an award has already been given.

(9) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the person engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the Person, or as any offense chargeable as driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C. 2331 committed outside of the United States against a resident of this state. "Terrorism" does not include an "act of war" as defined in 18 U.S.C. 2331.

(10) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support and includes a child of the victim born after his death.

(11) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to his dependent, not including services the dependent would have received from the victim if he had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

(12) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for his benefit if he had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

(13) "Director" means the director of the Reparations Office.

(14) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon a person:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(15) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss. Noneconomic detriment is not loss, but economic detriment is loss although caused by pain and suffering or physical impairment.

(16) "Elderly victim" means a person 60 years of age or older who is a victim.

(17) "Fraudulent claim" means a filed claim based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible as provided in Section 63-25a-410.

(18) "Fund" means the Crime Victim Reparation Fund created in Section 63-63a-4.

(19) "Law enforcement officer" means a law enforcement officer as defined in Section 53-13-103.

(20) "Medical examination" means a physical examination necessary to document criminally injurious conduct but does not include mental health evaluations for the prosecution and investigation of a crime.

(21) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct. The definition of mental health counseling is subject to rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(22) "Misconduct" as provided in Subsection 63-25a-412(1)(b) means conduct by the victim which was attributable to the injury or death of the victim as provided by rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(23) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this chapter.

(24) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this chapter.

(25) "Offender" means a person who has violated the criminal code through criminally injurious conduct regardless of whether he is arrested, prosecuted, or convicted.

(26) "Offense" means a violation of the criminal code.

(27) "Perpetrator" means the person who actually participated in the criminally injurious conduct.

(28) "Personal property" has the same definition as provided in Section 68-3-12.

(29) "Reparations Office" means the office of the reparations staff for the purpose of carrying out this chapter.

(30) "Reparations officer" means a person employed by the Reparations Office to investigate claims of victims and award reparations under this chapter, and includes the director when he is acting as a reparations officer.

(31) "Reparations staff" means the director, the reparations officers, and any other staff employed to administer the Crime Victims' Reparations Act.

(32) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but the benefit of himself or his dependents if he had not been injured.

(33) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of a person but does not include service providers.

(34) "Restitution" means money or services an appropriate authority orders an offender to pay or render to a victim of the offender's conduct.

(35) "Secondary victim" means a person who is traumatically affected by the criminally injurious conduct subject to rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(36) "Service provider" means a person or agency who provides a service to crime victims for a monetary fee except attorneys as provided in Section 63-25a-424.

(37) (a) "Victim" means a person who suffers bodily or psychological injury or death as a direct result of criminally injurious conduct or of the production of pornography in violation of Sections 76-5a-1 through 76-5a-4 if the person is a minor.

(b) "Victim" does not include a person who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule.

(c) "Victim" includes a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. 2331, committed outside of the United States.

(38) "Work loss" means loss of income from work the injured victim would have performed if he had not been injured and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work he was capable of performing but unreasonably failed to undertake.

**HISTORY:** C. 1953, 63-63-2, enacted by L. 1986, ch. 150, § 2; 1987, ch. 92, § 132; 1987, ch. 119, § 1; 1989, ch. 46, § 2; 1990, ch. 91, § 1; 1991, ch. 10, § 3; 1991, ch. 84, § 2; 1993, ch. 38, § 71; 1993, ch. 72, § 1; renumbered by L. 1996, ch. 242, § 33; 1997, ch. 308, § 8; 1998, ch. 282, § 59; 2000, ch. 235, § 1; 2002, ch. 256, § 47.

## Utah Code § 63-25a-411. Compensable losses and amounts

A reparations award under this chapter may be made if:

(1) the reparations officer finds the claim satisfies the requirements for the award under the provisions of this chapter and the rules of the board;

(2) monies are available in the fund;

(3) the person for whom the award of reparations is to be paid is otherwise eligible under this act;

(4) the claim is for an allowable expense incurred by the victim, as follows:

(a) reasonable and necessary charges incurred for products, services, and accommodations;

(b) inpatient and outpatient medical treatment and physical therapy, subject to rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

(c) mental health counseling which:

(i) is set forth in a mental health treatment plan which has been approved prior to any payment by a reparations officer; and

(ii) qualifies within any further rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

(d) actual loss of past earnings and anticipated loss of future earnings because of a death or disability resulting from the personal injury at a rate not to exceed 66- 2/3% of the person's weekly gross salary or wages or the maximum amount allowed under the state workers' compensation statute;

(e) care of minor children enabling a victim or spouse of a victim, but not both of them, to continue gainful employment at a rate per child per week as determined under rules established by the board;

(f) funeral and burial expenses for death caused by the criminally injurious conduct, subject to rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

(g) loss of support to the dependent or dependents not otherwise compensated for a pecuniary loss for personal injury, for as long as the dependence would have existed had the victim survived, at a rate not to exceed 66- 2/3% of the person's weekly salary or wages or the maximum amount allowed under the state workers' compensation statute, whichever is less;

(h) personal property necessary and essential to the health or safety of the victim as defined by rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act; and

(i) medical examinations as defined in Section 63-25a-402, subject to rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which may allow for exemptions from Sections 63-25a-409, 63-25a-412, and 63-25a-413.

(5) If a Utah resident suffers injury or death as a result of criminally injurious conduct inflicted in a state, territory, or country that does not provide a reciprocal crime victims' compensation program, the Utah resident has the same rights under this chapter as if the injurious conduct occurred in this state.

(6) An award of reparations shall not exceed \$ 25,000 in the aggregate unless the victim is entitled to proceeds in excess of that amount as provided in Subsection 77-38a-403(2). However, reparations for actual medical expenses incurred as a result of homicide, attempted homicide, aggravated assault, or DUI offenses, may be awarded up to \$ 50,000 in the aggregate.

**HISTORY:** C. 1953, 63-63-14, enacted by L. 1993, ch. 72, § 8; 1995, ch. 75, § 1; renumbered by L. 1996, ch. 242, § 42; 1997, ch. 308, § 13; 2000, ch. 235, § 7; 2002, ch. 35, § 3; 2002, ch. 256, § 51.

## REPORTING STATUTES WHICH MAY IMPACT RAPE VICTIMS

### **CHAPTER 23a**

### **INJURY REPORTING BY HEALTH CARE PROVIDERS**

#### **26-23a-1. Definitions.**

As used in this chapter:

(1) "Health care provider" means any person, firm, corporation, or association which furnishes treatment or care to persons who have suffered bodily injury, and includes hospitals, clinics, podiatrists, dentists and dental hygienists, nurses, nurse practitioners, physicians and physicians' assistants, osteopathic physicians, naturopathic practitioners, chiropractors, acupuncturists, paramedics, and emergency medical technicians.

(2) "Injury" does not include any psychological or physical condition brought about solely through the voluntary administration of prescribed controlled substances.

(3) "Law enforcement agency" means the municipal or county law enforcement agency:

(a) having jurisdiction over the location where the injury occurred; or

(b) if the reporting health care provider is unable to identify or contact the law enforcement agency with jurisdiction over the injury, "law enforcement agency" means the agency nearest to the location of the reporting health care provider.

(4) "Report to a law enforcement agency" means to report, by telephone or other spoken communication, the facts known regarding an injury subject to reporting under Section 26-23a-2 to the dispatch desk or other staff person designated by the law enforcement agency to receive reports from the public.

**26-23a-2. Injury reporting requirements by health care provider - Contents of report.**

- (1) (a) Any health care provider who treats or cares for any person who suffers from any wound or other injury inflicted by the person's own act or by the act of another by means of a knife, gun, pistol, explosive, infernal device, or deadly weapon, or by violation of any criminal statute of this state, shall immediately report to a law enforcement agency the facts regarding the injury.
- (b) The report shall state the name and address of the injured person, if known, the person's whereabouts, the character and extent of the person's injuries, and the name, address, and telephone number of the person making the report.
- (2) A health care provider may not be discharged, suspended, disciplined, or harassed for making a report pursuant to this section.
- (3) A person may not incur any civil or criminal liability as a result of making any report required by this section.
- (4) A health care provider who has personal knowledge that the report of a wound or injury has been made in compliance with this section is under no further obligation to make a report regarding that wound or injury under this section.

**26-23a-3. Penalties.**

Any health care provider who intentionally or knowingly violates any provision of Section 26-23a-2 is guilty of a class B misdemeanor.